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## **CHAPTER 2 – BOARDS AND PUBLIC FACILITIES**

### **Article 1 – Library Board**

#### **SECTION 2-101: LIBRARY; OPERATION AND FUNDING**

The city manages the Roman L. and Victoria Hruska Memorial Library, hereafter called “the library,” through the Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the library, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the city subject to taxation. The revenue from the said tax shall be known as the library fund and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the library. The library fund shall at all times be in the custody of the city treasurer. The board shall have the power and authority to appoint the librarian and to hire such other employees as may be deemed necessary and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the board shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §§51-201, 51-202, 51-211)

#### **SECTION 2-102: MEMBERS; TERMS**

The Library Board shall have control and management of the library. The board shall consist of five members who are residents of the city. The City Council shall by ordinance adopt the manner in which the members of the board are to be chosen. If the members are to be chosen by appointment, the nominated members must receive a majority vote of the council. If the members are to be elected, the usual election procedures of the city shall be followed. Each member shall serve a term of four years. The terms of members serving on the effective date of a change in the number of members shall not be shortened and any successors to those members shall be appointed as the terms of those members expire. The City Council may require the members of the board to give a bond in a sum set by resolution of the council and conditioned upon the faithful performance of their duties. In case of vacancy for any reason, the City Council shall fill such vacancy for the unexpired term. No council member shall be a member of the Library Board. No board member shall receive any pay or compensation for any services rendered as a member of the board. (Neb. Rev. Stat. §51-202)

#### **SECTION 2-103: OFFICERS; MEETINGS**

The Library Board shall meet at such times as the City Council may designate. Immediately after their appointment, the members shall organize by selecting from their number a president, secretary, and such other officers as may be necessary. No member of the Library Board shall serve in the capacity of both president and secretary. It shall be the duty of the secretary to prepare an agenda for all regular and special meetings, to keep the full and correct minutes and records of all meetings, and to file the same

with the city clerk, where they shall be available for public inspection during office hours within ten working days or before the next board meeting, whichever is earlier. A majority of the board members shall constitute a quorum for the transaction of business. Special meetings may be held upon the call of the president or any three board members. (Neb. Rev. Stat. §51-204)

#### **SECTION 2-104: POWERS AND DUTIES**

The Library Board shall have the authority to appoint a librarian and all other library employees. It shall be the duty of the board to have general charge of the library and to establish appropriate rules and regulations for the management, operation, and use of the same. The board shall have supervisory authority over all employees of the library, including the librarian. All actions of the board shall be subject to the review and supervision of the City Council. The Library Board shall be responsible for making such reports and performing such additional duties as the council may designate from time to time. (Neb. Rev. Stat. §§51-205, 51-211)

#### **SECTION 2-105: ANNUAL REPORT TO CITY COUNCIL**

The Library Board shall, on or before the second Monday in February each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the proper officers of the board. (Neb. Rev. Stat. §51-213)

#### **SECTION 2-106: LIBRARY; RULES AND REGULATIONS**

The Library Board shall establish rules and regulations for the governing of the library and for the preservation and efficient management thereof. By general rules it shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books, or other property or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Neb. Rev. Stat. §§51-205, 51-211)

#### **SECTION 2-107: LIBRARY; COST OF USE; VIOLATION OF RULES**

Use of the public library shall be free for the residents of the city. The City Council may exclude from the use of the library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (Neb. Rev. Stat. §§51-201, 51-212)

**SECTION 2-108: LIBRARY; DISCRIMINATION PROHIBITED**

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Neb. Rev. Stat. §51-211)

**SECTION 2-109: LIBRARY; BOOK REMOVAL**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the library without the consent of the librarian or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed guilty of an offense. (Neb. Rev. Stat. §51-211)

**SECTION 2-110: LIBRARY; LOST and DAMAGED MATERIALS**

Any person who injures or fails to return any item checked out from the library shall forfeit and pay not less than the value of the item in addition to any replacement costs and penalty which the Library Board may assess. (Neb. Rev. Stat. §51-211)

**SECTION 2-111: LIBRARY; SALE, EXCHANGE, OR DISPOSAL OF BOOKS**

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the library. Records shall be kept of any such books so disposed of. (Neb. Rev. Stat. §51-211)

**SECTION 2-112: LIBRARY; MONEY COLLECTED**

Any money collected by the library shall be turned over monthly by the librarian to the city treasurer along with a report of the sources of the revenue. (Neb. Rev. Stat. §51-209)





## **Article 2 – Park and Recreation Advisory Board**

### **SECTION 2-201: PARKS; OPERATION AND FUNDING**

The city owns and operates the city parks and other recreational areas through the park superintendent. The City Council, for the purpose of defraying the cost of the care, management and maintenance of the city park may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits subject to taxation. The revenue for the said tax shall be known as the park fund and shall remain in the custody of the city treasurer. The City Council shall have the authority to adopt rules and regulations for the efficient management of the city park. The park superintendent shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the City Council prior to the contractual agreement. (Neb. Rev. Stat. §§17-948 through 17-952)

### **SECTION 2-202: MEMBERS; TERMS**

The Park and Recreation Advisory Board shall consist of five appointed members: the park superintendent and four residents of the city who have an interest in park and recreational activities. The board will advise the City Council and park superintendent on park matters and activities related to recreation. The park superintendent shall serve as a consent member of the board. The first two appointed members of the board shall serve one-year terms. The remaining two appointed members shall serve three-year terms. All five members shall serve without compensation. The board members shall be appointed by the mayor with the advice and consent of the City Council. (Ord. No. 1043, 3/14/07)

### **SECTION 2-203: OFFICERS; MEETINGS; MINUTES**

A. The park superintendent shall call for a meeting of the Park and Recreation Advisory Board on a regular basis, no less than once every two months, on a schedule to be established and published by the park superintendent as required by the Nebraska Open Meetings Act. The park superintendent, with input from board members, shall set the agenda for such meetings. The park superintendent may call a special meeting of the board whenever, in his or her opinion, the business of the board may require it. Notice of special meetings shall be made in conformance with the Nebraska Open Meetings Act. A majority of the members of the board shall constitute a quorum for the transaction of conducting business. If a quorum is not present, those in attendance shall be named and shall adjourn until a later time. The board at its first meeting of the year shall elect one of its members as chairman of the board and one member as vice-chairman of the board. All meetings of the board shall be open to the public.

B. Minutes of all regular and special meetings shall be recorded by the park superintendent and maintained in the office of the city clerk. The minutes shall reflect the date; time and place of the meeting; members recorded as either present or absent;

a general description of all matters proposed, discussed or decided; and a record of any votes taken. Approval of minutes shall be considered at the next regular meeting of the board. Copies of approved minutes shall be provided to the City Council, mayor, and the city administrator.

(Ord. No. 1043, 3/14/07)

#### **SECTION 2-204: DUTIES**

A. The Park and Recreation Advisory Board shall function as an advisory body to the mayor and City Council and shall have no authority to adopt, amend, modify, alter or rescind any rule, regulation or ordinance for the management, governance or use of the David City municipal park and recreational facilities.

B. Duties of the board shall include making recommendations on all park-related concerns and issues for the purpose of planning, promoting and maintaining a diverse park system for residents of all ages. Functions of the board include holding neighborhood meetings, receiving resident input, conducting surveys, addressing funding strategies, evaluating and recommending capital improvements for new and existing park facilities, reviewing residential, commercial and industrial developments for park dedications, and conducting public meetings and workshops for citizen involvement in the park planning process. The board shall have no financial and budgetary authority. The board shall prepare an annual budget for submission to the City Council.

(Ord. No. 1043, 3/14/07)

#### **SECTION 2-205: PARKS; RENTALS**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing and beautifying the park campgrounds and Schweser House, make a reasonable rental charge for the use of said park facilities by any person or organization. The council shall prescribe rules and regulations for such rentals. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color or national origin in the classification of persons and organizations for rental purposes. (Neb. Rev. Stat. §17-953)

## **Article 3 – Aquatic Center**

### **SECTION 2-301: OPERATION AND FUNDING**

The city owns and manages the David City Family Aquatic Center, which contains the city swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the aquatic center, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the city subject to taxation. The revenue from the said tax shall be known as the aquatic center fund and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the aquatic center. The fund shall at all times be in the custody of the city treasurer. The park superintendent shall be responsible for the daily on-going management, maintenance and use of the aquatic center and shall report all such activities to the City Council at its request. The council shall have the power and authority to hire and supervise the aquatic center manager and such employees as may be deemed necessary and shall pass such rules and regulations for the operation of the center as may be proper for its efficient operation. (Neb. Rev. Stat. §§17-948, 17-951, 17-952)

### **SECTION 2-302: RULES AND REGULATIONS**

The City Council shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the aquatic center and for the efficient management thereof. Suitable penalties may be provided for the violation of such bylaws, rules, and regulations, subject to review and supervision. (Neb. Rev. Stat. §17-949)

### **SECTION 2-303: ADMISSION CHARGE**

The City Council, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the aquatic center, may make a reasonable admission charge for its use by any person. The said charges shall be on file at the office of the city clerk and shall also be posted in a conspicuous place at the center for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

### **SECTION 2-304: RENTALS**

The City Council may authorize the aquatic center manager to have the authority to rent the swimming pool to such organizations and other persons as the manager may in his or her discretion see fit. The council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be set by resolution of the council, kept on file at the office of the city clerk and posted in a conspicuous place at the aquatic center. (Neb. Rev. Stat. §17-949)



## **Article 4 – Auditorium**

### **SECTION 2-401: OWNERSHIP**

The city owns and manages the city auditorium through the auditorium supervisor. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements on the city auditorium, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the city subject to taxation. The revenue from the said tax shall be known as the auditorium fund and shall include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing personal property and real estate from any source for the purpose of endowing the city auditorium. The auditorium fund shall at all times be in the custody of the city treasurer. The City Council shall have the power to hire and supervise such employees as the council may deem necessary and shall pass such rules and regulations for the operation of the auditorium as may be proper for its efficient management. All actions by the auditorium supervisor shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §§17-953 through 17-955)

### **SECTION 2-402: RENTALS**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the auditorium, make a reasonable rental charge for its use by any person or organization. The council shall prescribe rules and regulations for such rentals. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color or national origin in the classification of persons and organizations for rental purposes. (Neb. Rev. Stat. §17-953)

### **SECTION 2-403: RULES AND REGULATIONS**

The City Council shall have the power and authority to enact bylaws, rules, and regulations for the protection of the auditorium and the safety of those using the said facilities. The council may provide suitable penalties for the violation of such bylaws, rules, and regulations. All damage suffered by the auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof or the amount shall be deducted from the damage deposit which the City Council or auditorium supervisor may in their discretion have required prior to the said rental. The council may require during any rental the presence of law enforcement personnel to insure that the said rules and regulations and the municipal code are not violated. The wages of such persons shall be set by resolution of the City Council and shall be paid prior to the beginning of the rental period. All rental fees, rules, and regulations shall be as set by resolution of the council and kept on file for public inspection at the office of the city clerk during office hours. (Neb. Rev. Stat. §17-953)



## Article 5 – Tree Board

### SECTION 2-501: CREATION AND ESTABLISHMENT

A. The Tree Board for the city shall consist of five members, to include (1) the street superintendent; (2) the electric supervisor; (3) the park superintendent; (4) one City Council member; and (5) one citizen appointed by the mayor with the approval of the City Council.

B. The terms of office of the Tree Board members shall be two years each. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. Members of the Tree Board shall serve without compensation. It shall be the responsibility of the board to develop and administer a written plan for the maintenance, planting and removal of all street and park trees and shrubs. Such plan, which may be updated or amended as the need requires, will be presented to the City Council and upon its approval shall constitute the official comprehensive city tree plan.

C. The Tree Board, when requested by the City Council, shall research and make recommendations on any special matter within the scope of its duties. The board shall keep a journal of its proceedings. The board shall hold, at a minimum, semiannual meetings. The board shall not make decisions for the City Council but shall make suggestions and recommendations to the council.

Ord. Nos. 1162, 12/14/11; 1387, 4/27/22)

### SECTION 2-502: TREES; DEFINITIONS

"Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on street rights of way, commonly called "parquets," and on land lying between property lines on either side of all streets, avenues, or ways within the city.

"Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the city or to which the public has free access as a park

### SECTION 2-503: TREES; SPECIES NOT TO BE PLANTED

|              |                     |                          |
|--------------|---------------------|--------------------------|
| Austree      | Elm varieties       | Shrubbery (of all types) |
| Black Locust | Fruit trees         | Silver Maple             |
| Black Walnut | Poplar              | Tree of Heaven           |
| Conifers     | Seedless Cottonwood |                          |
| Cottonwood   | Weeping Willow      |                          |

### SECTION 2-504: TREES; SPACING

No trees may be planted closer together than the following: small trees, 25 feet; me-

dium trees, 35 feet; and large trees, 35 feet. Large trees are those that reach mature heights exceeding 40 feet. Medium trees have a mature height of 25 feet to 40 feet, and small (ornamental) trees have a mature height of less than 25 feet.

#### **SECTION 2-505: TREES; DISTANCE FROM CURB AND SIDEWALK**

Street trees may be planted in the parqu岸 where there is more than 8 feet between the edge of the sidewalk and the curb of the street. Trees planted in the parqu岸 shall be equidistant from the sidewalk and the curb. Street or private property trees shall not be planted any closer than 5 feet from a sidewalk.

#### **SECTION 2-506: TREES; DISTANCES; STREET CORNERS; FIRE HYDRANTS**

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet from any fire hydrant.

#### **SECTION 2-507: TREES; UTILITIES**

No street trees other than those species listed as small trees may be planted under or within 10 lateral feet of any overhead utility wire or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

#### **SECTION 2-508: TREES; MAINTENANCE, REMOVAL; PLANTING BY ADJACENT PROPERTY OWNERS**

A. The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

B. The Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public Improvements or is affected with any injurious fungus, insect, or other pest.

C. The Tree Board shall have cause to order removed any tree or part thereof which is deemed hazardous to private property or the general public.

D. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with this article. The adjacent or abutting property owners shall have the responsibility to perform appropriate tree care on their street trees.

#### **SECTION 2-509: TREES; TOPPING**

It shall be unlawful as a normal practice for any person, firm, or city department to top



any street tree, park tree, or other tree. "Topping" is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions will be pruned using other acceptable pruning techniques such as drop crotch pruning or directional pruning.

### **SECTION 2-510: TREES; PRUNING; CLEARANCE**

Every owner of any tree overhanging any street or right of way within the city shall prune the branches so that they do not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street and 8 feet above the sidewalk. Said owner shall remove all dead, diseased, or dangerous trees and broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. It shall be the responsibility of the Electric Department to prune any trees in close proximity to electrical lines.

### **SECTION 2-511: TREES; TREE REMOVAL PERMIT**

A. It shall be unlawful for any person, property owner, homeowner, or any firm engaged in the business or occupation, for hire or other valuable consideration, to prune, treat or remove any street or park trees within the city without first applying for and procuring a permit. There shall be no fee for said permit. The permit shall be applied for and obtained at the city office during regular business hours.

B. The property owner will be required to submit two written estimates with the tree removal application. The city may share the cost of such removal. After such estimates or bids have been reviewed, the street superintendent will notify the bid winner. If a tree is a hazard or a public safety concern which needs to be removed immediately, the requirement of two estimates can be waived with the approval of the mayor or council president.

C. Trees must be cut down within 45 days after the issuance of the permit.

D. The city clerk must be notified one day prior to actual tree removal.

E. During the cutting of any tree within 10 feet of any street, the Street Department of the city must be contacted and traffic caution cones must be placed on the street(s). A safety letter shall be written by the city attorney which notifies residents of the location of the hazardous tree, the timeline in which removal of the tree shall take place, and the cost shared by the city for such removal.

F. If the city removes or has removed a dead or hazardous tree, the cost of such

removal shall be assessed against the property.

G. Work performed by any public service company or city employee in the pursuit of public service endeavors shall be exempt from the requirements of this article.

H. Once the entire tree removal process has been completed, including stump removal, the property owner shall pay the entire cost to the tree remover and then submit a copy of the paid receipt to the office of the city clerk for reimbursement for the shared cost of such removal, if any.

(Ord. No. 1161, 11/09/11)

### **SECTION 2-512: TREES; REMOVAL OF STUMPS**

After any street or park tree is removed, the stump shall be removed at least 4 inches below the surface of the ground and the remaining hole shall be filled with suitable soil.

### **SECTION 2-513: INTERFERENCE WITH TREE BOARD**

It shall be unlawful for any person to prevent, delay, or interfere with the Tree Board or any of its agents while they are engaged in the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

### **SECTION 2-514: ARBORISTS; LICENSE AND BOND**

A. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be paid annually in advance, by January 1; provided, no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Individual property owners pruning, treating or removing street trees in compliance with this article shall be exempt from licensing; provided, such property owners shall be required to apply for a permit and comply with all requirements of Section 2-511 (Tree Removal Permit) and subsection (B) herein prior to commencing any such work. The said license fee shall be as set by resolution of the City Council and kept on file in the city office.

B. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without filing evidence of bond or insurance in the minimum amount of \$500,000.00 for bodily injury and \$500,000.00 for property damage which shall be kept on file at the office of the city clerk. It shall be unlawful for individual property owners to prune, treat or remove street trees within the city without filing evidence of homeowner's insurance. Any pruning or tree or limb removal under the diameter of 4 inches at the last cut and any public employees doing such work in the pursuit of their public service endeavors shall be exempt from the requirements of this subsection.

## Article 6 – Planning Commission

(Neb. Rev. Stat. §§19-924 through 19-929)

### **SECTION 2-601: MEMBERS**

The Planning Commission shall consist of five members who shall represent, insofar as is possible, the different professions or occupations in the city and shall be appointed by the mayor by and with the approval of a majority vote of the City Council. Two of the regular members may be residents of the area over which the city is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the city exercises extraterritorial zoning and subdivision regulation, one regular member of the commission shall be a resident from such area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation and no such resident is a regular member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. For purposes of this section, “a sufficient number of residents” shall mean 500 residents. All regular members of the commission shall serve without compensation and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. Rev. Stat. §19-908.

### **SECTION 2-602: ALTERNATE MEMBER**

The mayor, with the approval of a majority vote of the City Council, may by ordinance provide for the appointment of one alternate member to the commission, who shall serve without compensation and shall hold no other city office. The term of the alternate member shall be three years and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the mayor with the approval of a majority of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the commission at any time when less than the full number of regular commission members is present and capable of voting.

### **SECTION 2-603: TERMS; VACANCIES**

The term of each regular Planning Commission member shall be three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before City Council, be removed by the mayor with the consent of a majority vote of the council members for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of term shall be filled for the unexpired portion of the term by the mayor.

**SECTION 2-604: OFFICERS; MEETINGS**

The Planning Commission shall elect its chairman from its members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year and he or she shall be eligible for re-election. The commission shall hold at least one regular meeting in each calendar quarter, except that the City Council may require the commission to meet more frequently and the chairman of the commission may call for a meeting when necessary to deal with business pending before the commission. A number of commissioners equal to a majority of the number of regular members appointed to the commission shall constitute a quorum for the transaction of any business. The commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

**SECTION 2-605: FUNDING**

The City Council may provide the funds, equipment, and accommodations necessary for the work of the Planning Commission but its expenditures, exclusive of gifts, shall be within the amounts appropriated for that purpose by the council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

**SECTION 2-606: POWERS AND DUTIES; APPEAL**

A. Except as provided in Neb. Rev. Stat. §§19-930 to 19-933, the Planning Commission shall (1) make and adopt plans for the physical development of the city, including any areas outside its boundaries which in the commission's judgment bear relation to the planning of such city and including a Comprehensive Development Plan as defined by Neb. Rev. Stat. §19-903; (2) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments; and (3) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the Comprehensive Development Plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The City Council shall not take final action on matters relating to the Comprehensive Development Plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the Planning Commission. The council shall by ordinance set a reasonable time within which the recommendation from the commission is to be received. A recommendation from the commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights of way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the City Council has designated an agent by ordinance pursuant to Neb. Rev. Stat. §19-916.

B. The commission may, with the consent of the City Council, in its own name (1) make and enter into contracts with public or private bodies, (2) receive contributions, bequests, gifts, or grant funds from public or private sources, (3) expend the funds appropriated to it by the city, (4) employ agents and employees, and (5) acquire, hold, and dispose of property. The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

C. The commission may grant conditional uses or special exceptions to property owners for the use of their property if the City Council has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the City Council may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The council may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest. An appeal of a decision by the commission or City Council regarding a conditional use or special exception shall be made to the District Court.



## **Article 7 – Board of Adjustment**

(Neb. Rev. Stat. §§19-907 through 19-912)

### **SECTION 2-701: MEMBERS**

A. The mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason. No member of the City Council shall serve as a member of the Board of Adjustment. One member only of the board shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the board. At least one member of the board shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. The members of the board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the council and conditioned upon the faithful performance of their duties.

B. Each member of the board shall serve a term of three years unless reappointed and shall be removable only for cause by the City Council upon written charges and after a public hearing. Any vacancy shall be filled for the unexpired term of any member whose term becomes vacant.

### **SECTION 2-702: OFFICERS; MEETINGS**

The Board of Adjustment shall organize at its first meeting in June each year and elect from its membership a chairman and secretary. No member of the board shall serve in the capacity of both chairman and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all board meetings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All meetings of the board shall be open to the public and shall be held at such times as the City Council may designate or at such other times as the chairman may, in his or her discretion, call a meeting. Special meetings may be also held upon the call of any three members of the board. A majority of the board shall constitute a quorum for the purpose of doing business. The board shall adopt rules in accordance with the provisions of Neb. Rev. Stat. §§19-901 to 19-914. The board shall be funded from time to time out of the general fund by the City Council.

### **SECTION 2-703: POWERS AND DUTIES; APPEALS; INTERPRETATION OF MAPS; VARIANCES**

A. It shall be the duty of the board:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a municipal official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
  2. To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and
  3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and Neb. Rev. Stat. §§19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. No such variance shall be authorized by the board unless it finds that:
    - a. The strict application of the zoning regulation would produce undue hardship;
    - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
    - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
    - d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
    - e. To grant variances on sidewalk matters covered in Chapter 6 of this code and on fences or related matters.
- B. In exercising the above-mentioned powers, the board may reverse or affirm,



wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such municipal official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

C. The board shall be responsible for making such reports and performing such other duties as the City Council may designate.

(Neb. Rev. Stat. §§19-907 through 19-910)



## Article 8 – Housing Authority

### SECTION 2-801: CONTINUED EXISTENCE AS HOUSING AGENCY

A. The local housing authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act and shall conduct its operations consistent with the act. All property, rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of the authority belong to the agency as successor. All obligations, debts, commitments, and liabilities of the authority are obligations, debts, commitments, and liabilities of the successor agency.

B. Any resolution by the Housing Authority and any action taken by the authority prior to January 1, 2000, with regard to any project or program which was to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action was lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding upon the successor agency and enforceable by or against the agency notwithstanding that such resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the act.

C. All commissioners of the Housing Authority and all officers, legal counsel, technical experts, directors, and other appointees or employees of the agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the act.  
(Neb. Rev. Stat. §71-1576)

### SECTION 2-802: MEMBERS; TERMS; RESIDENCY; EXPENSES

A. The City Council shall appoint five persons who shall constitute the Housing Authority, called the commissioners. One commissioner shall be appointed each year. Each commissioner shall serve a five-year term of office or until his or her successor is duly appointed; provided, all vacancies shall be filled for the unexpired terms. The council may appoint one of its members to serve as one of the five members of the authority for such term as the council may determine.

B. No person shall serve as a commissioner unless he or she resides within the area of operation of the Housing Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services but shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his or her duties.  
(Neb. Rev. Stat. §§71-1594; 71-1596; 71-1598; 71-15,107)

**SECTION 2-803: CONFLICT OF INTEREST**

During his or her tenure and for one year thereafter, no commissioner, officer, or employee of the Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project or in any contract or proposed contract relating to any housing project. If any such commissioner, officer, or employee involuntarily acquires any such interest or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer, or employee, he or she shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes. He or she shall not participate in any action by the authority relating to the property or contract in which he or she has any such interest; provided, nothing herein shall apply to the acquisition of any interest in notes or bonds of the authority issued in connection with any housing project or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture or to utility services, the rates for which are fixed or controlled by a governmental agency.

**SECTION 2-804: DUTIES**

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the City Council on all such information. The authority may employ legal counsel or it may call upon the chief law officer of the city for such services as it may require. It may employ technical experts and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensations, and terms of office. The authority may delegate such other powers and duties to its agents or employees as it may deem proper.

**SECTION 2-805: MEETINGS**

The commissioners shall elect a chairman and vice-chairman and shall have the power to employ an executive director who shall serve as an officio secretary of the Housing Authority. A majority of commissioners shall constitute a quorum for the purpose of conducting business, exercising powers, and for all other purposes. Action may be taken by the authority upon the vote of the majority of the commissioners present unless in any case the bylaws of the authority shall require a larger number. (Neb. Rev. Stat. §§71-1594, 71-1595)

**SECTION 2-806: REMOVAL OF MEMBER**

A commissioner may be removed for neglect of duty, misconduct in office, or conviction of any felony by the mayor, who shall send a notice of removal to such commissioner. The said notice shall set forth the charges against him or her. Unless within ten days from the receipt of such notice the commissioner files with the city clerk a request for a hearing before the City Council, the commissioner shall be deemed removed from office. If a request for hearing is so filed, the council shall hold a hearing no sooner than ten days after the date a hearing is requested, at which hearing the commissioner

shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be upheld. If the removal is not upheld by the council, the commissioner shall continue to hold his or her office. (Neb. Rev. Stat. §71-15,105)



## **Article 9 – Airport Advisory Board**

(Neb. Rev. Stat. §§3-501 through 3-513)  
(Ord. No. 1041, 4/11/07)

### **SECTION 2-901: PURPOSE**

The purpose of the Airport Advisory Board shall be to advise the city on airport-related activities.

### **SECTION 2-902: BOARD MEMBERS**

Members of the Airport Advisory Board shall be appointed by the mayor with the advice and consent of the City Council. Membership of the board shall be comprised of five members consisting of two pilots, one City Council member, one Planning Commission member and the airport manager. Members of the board shall be appointed to serve three-year terms. All five members shall serve without pay. Any vacancies on the board shall be filled by the mayor's appointment with the advice and consent of the council.

### **SECTION 2-903: MEETINGS**

A. The airport manager shall call the meetings and set the agenda for the board on a regular basis, no less than once every two months, on a schedule to be established and published by him or her as required by Nebraska Open Meetings Act. The airport manager may call a special meeting of the board whenever, in his or her opinion, the business of the board may require it. Notice of special meetings shall be made in conformance with the Open Meetings Act. A majority of the members of the board shall constitute a quorum for the transaction of business. If a quorum is not present, those in attendance shall be named and shall adjourn until a later time. All meetings of the board shall be open to the public.

B. Minutes of all regular and special meetings shall be recorded by the airport manager and maintained in the office of the city clerk. The minutes shall reflect the date, time and place of the meetings; members recorded as either present or absent; a general description of all matters proposed, discussed or decided; and a record of any votes taken. Approval of the minutes shall be considered at the next regular meeting of the board. Copies of approved minutes shall be provided to the City Council, mayor and the city administrator.

### **SECTION 2-904: POWERS AND DUTIES**

A. The board shall function in an advisory capacity only and shall have no authority to adopt, amend, modify, alter or rescind any rule, regulation or ordinance for the management, governance or use of the David City Municipal Airport. The board shall make recommendations regarding aeronautical operations and maintenance, involving technical aviation and safety matters, to the airport manager. The board shall

have no financial and budgetary authority. The board shall prepare an annual budget for submission to the City Council.

B. Duties of the board shall include but not be limited to the following. The board shall:

1. Study the actual operation of the airport with the view of improving existing standards or establishing new standards and the possibility of incorporating the new standards in amendments to this article;
2. Study existing and future leases or drafts of leases entered into between the city and private parties regarding the operation of the airport or portions thereof or any facilities thereon;
3. Study the relationship of the airport manager to the city and its citizens with the view towards the maximum protection of the public health, welfare and safety as well as the establishment of a line of communication and the maintenance of good public relations;
4. Study economic feasibility of various land uses of adjacent property and, in particular, the use of said land for industrial, recreational, or airport expansion; and
5. Attempt to find informal resolutions of grievances with a view related to operations and maintenance and, if necessary, make recommendations to the City Council for the resolution of grievance.



## **Article 10 – Community Redevelopment Authority**

### **SECTION 2-1001: OFFICERS**

Seven persons, the mayor, and City Council, shall constitute the Community Redevelopment Authority. The mayor shall designate the term of office for each member, as provided in Neb. Rev. Stat. §18-2102.01. The authority shall select one of its members as chairman and one as vice-chairman. A total of four members of the authority shall constitute a quorum for the transaction of conducting business and shall keep a record of its resolutions, transactions, findings and determinations. Such records shall be made available for public inspection during regular business hours.

### **SECTION 2-1002: ADMINISTRATOR**

The Community Redevelopment Authority shall organize by electing one of its members as chairperson and another as vice-chairperson of the authority. That person shall perform such duties as may be assigned by the authority, including the necessary administrative functions described in Neb. Rev. Stat. §18-2101.01, et seq.

### **SECTION 2-1003: FUNDS**

All income, revenue, profits and other funds received by the Community Redevelopment Authority shall be deposited with the city treasurer as *ex officio* treasurer of such authority without commingling such money with any other money under the treasurer's control and disbursed by check or draft only upon warrants, orders or requisitions by the chairman of the authority or other person authorized by the authority, which shall state distinctly the purpose for which the same are drawn. A permanent record shall be kept by the authority of any such aforementioned activity.



## **Article 11 – Penal Provision**

### **SECTION 2-1101: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Ord. No. 1119, 1/13/10)